PATENT
88620

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicants:	Jeff Hodson	)
		) Confirmation No. 6950
Title:	TRANSACTION TIME TRACKING AND REPORTING SYSTEM	)))
		)
Serial No.:	10/624,223	)
		)
Filed:	July 22, 2003	)
		)
Examiner:	Lu, Charles Edward	)
		)
Art Unit:	2161	)

APPELLANTS' BRIEF ON APPEAL

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir/Madam:

This is an Appeal from the Final Office Action mailed October 11, 2007, finally

rejecting all of the pending claims. A Notice of Appeal was filed January 11, 2008.

Applicable fees accompany this brief.

Should there be any deficiency in fees in connection with this Appeal, the

Commissioner is respectfully requested to and is hereby authorized to charge any such

deficiency in fees to Deposit Account No. 23-0920.

1. REAL PARTY IN INTEREST

The real parties in interest are Aspect Software, Inc. having a place of business at 829 Parkview Boulevard, Lombard, Illinois 60148.

2. RELATED APPEALS AND INTERFERENCES

There are no appeals, interferences, or judicial proceedings related to, directly affecting or affected by, or having a bearing on the Board's decision in the captioned Appeal.

3. STATUS OF CLAIMS

Claims 1-30 are currently pending, have been finally rejected, and all rejected claims 1-30 are being appealed.

4. STATUS OF AMENDMENTS

There were no amendments filed subsequent to the final rejection.

5. SUMMARY OF CLAIMED SUBJECT MATTER

a. Independent Claim 1

Claim 1 recites a method of compiling performance reports (see e.g., p. 9, lines 14-16; p. 13, lines 15-18; p. 14, lines 16-23) in a contact center (see e.g., Fig. 1; ref. numeral 18) serving a plurality of clients (see e.g., Fig. 1; ref. numerals 12, 14) using a plurality of agents (see e.g., Fig. 1; ref. numerals 20, 22). The method comprises opening a transaction file (see e.g., Fig. 1; ref. numerals 46, 48) for saving information about asynchronous transactions between an agent of the plurality of agents and a client of the plurality of clients (see e.g., p. 8, line 30 to p. 9, line 3; p. 11, lines 1-11), and measuring indicia of activity for the asynchronous transactions between the agent and client including an effort value which represents

effective effort to respond to each transmission within each transaction (see e.g., p. 9, lines 16-27). The method further comprises adding the measured indicia of activity to the transaction file (see e.g., p. 9, lines 7-10), and compiling a report based upon the transaction file (see e.g., p. 13, lines 15-23; p. 14, lines 16-23).

b. Independent Claim 13

Claim 13 recites apparatus for compiling performance reports (see e.g., p. 9, lines 14-16; p. 13, lines 15-18; p. 14, lines 11-23) in a contact center (see e.g., Fig. 1; ref. numeral 18) serving a plurality of clients (see e.g., Fig. 1; ref. numerals 12, 14) through the Internet (see e.g., Fig. 1; ref. numeral 16) using a plurality of agents (see e.g., Fig. 1; ref. numerals 20-22). The apparatus comprises means for opening (see e.g., Fig. 1; ref. numeral 42) a transaction file (see e.g., Fig. 1; ref. numerals 46, 48) for saving information about asynchronous Internet transactions between an agent of the plurality of agents and a client of the plurality of clients (see e.g., p. 8, line 30 to p. 9, line 31; p. 11, lines 1-11), and means for measuring (see Fig. 1; ref. numeral 66) indicia of activity for the asynchronous Internet transactions between the agent and client including an effort value which reflects effective effort to respond to each transmission within each transaction (see e.g., p. 9, lines 6-27). The apparatus further comprises means for adding (see e.g., Fig. 1; ref. numeral 42) the measured indicia of activity to the transaction file (see e.g., p. 8, line 23 to p. 9, line 10), and means for compiling (see e.g., Fig. 1; ref. numeral 62) a report based upon the transaction file (see e.g., p. 14, lines 16-23).

c. Independent Claim 25

Claim 25 recites apparatus for compiling performance reports (see e.g., p. 9, lines 14-16; p. 13, lines 15-18; p. 14, lines 16-23) in a contact center (see e.g., Fig. 1; ref. numeral 18) serving a plurality of clients (see e.g., Fig. 1; ref. numerals 12, 14) through the Internet (see e.g., Fig. 1; ref. numeral 16) using a plurality of agents (see e.g., Fig. 1; ref. numerals 20, 22). The apparatus comprises a transaction processor (see e.g., Fig. 1; ref. numeral 42) adapted to open a transaction file (see e.g., Fig. 1; ref. numerals 46, 48) for saving information about asynchronous Internet transactions between an agent of the plurality of agents and a client of the plurality of clients (see e.g., p. 8, line 30 to p. 9, line 3; p. 11, lines 1-11), and a measurement processor (see e.g., Fig. 1; ref. numeral 66) adapted to measure indicia of activity for the asynchronous Internet transactions between the agent and client including an effort value which reflects effective effort to respond to each transmission within each transaction (see e.g., p. 9, lines 6-27). The apparatus further comprises a transaction file (see e.g., Fig. 1; ref. numerals 46, 48) for collecting the measured indicia of activity (see e.g., p. 8, line 23 to p. 9, line 10), and a reports processor (see e.g., Fig. 1; ref. numeral 62) adapted to compile a report based upon the transaction file (see e.g., p. 14, lines 14-23).

d. Dependent claim 4

Claim 4 recites the method of claim 1 wherein the step of measuring the indicia of activity further comprises counting the number of exchanges between the agent and the client that are required to close a sale (see e.g., p. 9, lines 19-23).

e. Dependent claim 16

Claim 16 recites the apparatus of claim 13 wherein the means for measuring the indicia of activity further comprises means for counting (see e.g., Fig. 1; ref. numeral 66) the number of exchanges between the agent and the client (see e.g., p. 9, lines 7-23).

6.   GROUNDS OF REJECTION

    a.   Claims 1, 2, 4, 5, 7-9, 13, 14, 16, 17, 20, 21, 23, 25, 26, and 28 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 6,724,887 to Eilbacher et al. ("Eilbacher") in view of Jackson ("Handling E-Mail in a Customer-Centric Organization").

    b.   Claims 3, 10, 15, 19, 22, 24, 27, and 29 were rejected under 35 U.S.C. §103(a) as being unpatentable over Eilbacher in view of Jackson and in view of Ulrich (U.S. Pat. No. 6,895,438).

    c.   Claim 6 was rejected under 35 U.S.C. §103(a) as being unpatentable over Eilbacher in view of Jackson and further in view of Armstrong (U.S. Pat. No. 6,356,633).

    d.   Claim 11 was rejected under 35 U.S.C. §103(a) as being unpatentable over Eilbacher in view of Jackson and further in view of U.S. Pat. No. 5,621,789 to McCalmont et al. ("McCalmont").

    e.   Claim 12 was rejected under 35 U.S.C. §103(a) as being unpatentable over Eilbacher in view of Jackson in view of McCalmont and further in view of Ulrich.

f. Claims 18 and 30 were rejected under 35 U.S.C. §103(a) as being

unpatentable over Eilbacher in view of Jackson and further in view of

Ichbiah (U.S. Pat. No. 5,623,406).

7. ARGUMENT – ALL PENDING CLAIMS 1-30 ARE DISTINGUISHABLE
    OVER THE CITED REFERENCES BECAUSE NONE OF THE
    REFERENCES DISCLOSES AN EFFORT VALUE WHICH REFLECTS
    EFFECTIVE EFFORT TO RESPOND TO EACH TRANSMISSION

a. All independent claims 1, 13, and 25 and claims 2-12, 14-24, and 26-30
    which depend therefrom are not rendered obvious by Eilbacher in view of
    Jackson because neither reference discloses the claimed effort value that
    represents effective effort to respond to each transmission.

All independent claims 1, 13, and 25, as well as dependent claims 2, 4, 5,

7-9, 14, 16, 17, 20, 21, 23, 26, and 28 have been rejected as obvious over Eilbacher

in view Jackson. Eilbacher is directed to a call center which records and analyzes

parameters of telephone calls to determine the customer experience. Eilbacher,

however, does not deal with the effective effort of data communications. As described

in the instant patent application (at p. 10, lines 1-12 and 22-32), merely measuring

time of use of the channel for telephone calls is known but asynchronous transactions

are dramatically different because of the nature of the transaction. As described by

applicant (p. 10, lines 12-21) asynchronous transactions are data transactions that are

for the most part intermittent and in which the data is created first and then

transmitted afterward. Thus, it is difficult to determine how long the transaction

actually required because the transaction may include exchanges over hours or days

while the actual transactions (which may be the result of much effort in, for example,

drafting an e-mail) take only very short periods of time (e.g., milliseconds) with long delays in between. Eilbacher does not recognize or address this issue at all.

Independent claims 1, 13, and 25 recite measuring "…an effort value which reflects effective effort to respond to each transmission within each transaction (see e.g., claim 1, lines 6-8; p. 12, second paragraph). The Final Office Action (mailed 10/11/07) concedes that Eilbacher does not teach an effort value which reflects effort associated with each transmission (Final Office Action, p. 3, lines 16-17) but argues that Jackson discloses an effort value which represents effective effort to respond as "e-mail response time" associated with each e-mail transmission within each transaction. Jackson, however, merely refers to "e-mail response time," ("By understanding the customer's ideal experience…E-mail response time becomes as important as telephone response time…" Jackson, p. 6, lines 19-34) which clearly refers to the total time to respond to an e-mail from the customer perspective (i.e., how long was the total time between the customer sending the e-mail and the customer receiving a response back) not the agent's effort to respond. Jackson's "response time" is not a measure of effort to respond since it would include, for example, such time periods as delays before opening the e-mail, delay in beginning to prepare a response, delay in transmitting the response after preparing the response, delays in transmission over the network, etc.. Therefore, this "response time" is unrelated to the claimed effort value and Jackson's mere mention of this customer centric "response time" does not teach or suggest applicant's claimed effort value. The claimed invention instead concerns a measure of the effort needed to respond to a message which includes reading, evaluating, and preparing a reply such as an e-mail

(see e.g., specification, p. 12 and 13) not the time between transmission of the initiating e-mail by the customer and the receipt of a response from the agent. Thus, Eilbacher and Jackson do not disclose the claimed effort value feature, and therefore independent claim 1, 13, and 25 are distinguishable over the combination as are claims 2-12, 14-24, and 26-30 which depend therefrom. In addition, none of the other references of record disclose this effort value feature. Thus, all rejected claims 1-30 are allowable over all of the cited references.

     b. <u>Dependent claims 4 and 16 are not rendered obvious by Eilbacher in view of Jackson because neither reference discloses counting the number of exchanges between the agent and the client.</u>

Claims 4 and 16 have been rejected as obvious over Eilbacher in view of Jackson. Claims 4 and 16 both recite counting of the "number of exchanges between the agent and the client." The Final Office Action asserts on page 4 that Eilbacher teaches counting the number of exchanges in "cradle-to-grave" transactions at Col. 10, lines 4-17. However, Eilbacher merely refers to sampling recorded "cradle-to-grave" calls which "refers to the fact that the call is recorded from the time it enters the contact center until the caller hangs up." (Col. 10, lines 8-9). Thus, this is a single call, not a series of exchanges and there is no description of counting any such exchanges nor any suggestion of a reason to do so (since it is one contiguous call). Thus, Eilbacher does not disclose the claimed "counting." This counting feature is also not disclosed by Jackson or any of the other cited references. Thus, claims 4 and 16 are further distinguishable over all the cited references and are therefore allowable over all the cited references.

8. CLAIMS APPENDIX

An appendix containing a copy of the claims involved in the appeal is attached.
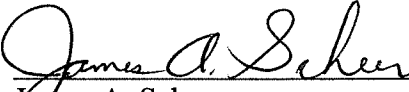
9. EVIDENCE APPENDIX

None. There is no evidence submitted by applicants and relied on in this appeal.

10. RELATED PROCEEDINGS APPENDIX

None. There are no related proceedings.

Favorable consideration of this Appeal and allowance of claims 1-30 of the captioned application are respectfully requested.

Respectfully submitted

James A. Scheer
Reg. No.: 29,434

Dated: July 11, 2008

WELSH & KATZ, LTD
120 South Riverside Plaza, 22nd Floor
Chicago, Illinois 60606
(312) 655-1500 Telephone

CLAIMS APPENDIX

1.   A method of compiling performance reports in a contact center serving a plurality of clients using a plurality of agents, such method comprising the steps of:

opening a transaction file for saving information about asynchronous transactions between an agent of the plurality of agents and a client of the plurality of clients;

measuring indicia of activity for the asynchronous transactions between the agent and client including an effort value which represents effective effort to respond to each transmission within each transaction;

adding the measured indicia of activity to the transaction file; and

compiling a report based upon the transaction file.

2.   The method of compiling performance reports as in claim 1 wherein the step of opening the transaction file further comprises detecting an initial contact between the agent and the client, and the method further comprising tagging subsequent transmissions of a continuing transaction as belonging to the continuing transaction.

3.   The method of compiling performance reports as in claim 2 wherein the step of detecting the initial contact between the agent and the client further comprises searching a prior contact list of the agent to identify prior contacts involving the client.

4.   The method of compiling performance reports as in claim 1 wherein the step of measuring the indicia of activity further comprises counting a number of exchanges between the agent and the client that are required to close a sale.

5.   The method of compiling performance reports as in claim 1 wherein the exchanges further comprise at least one of e-mail, instant messaging, and chat sessions.

6.   The method of compiling performance reports as in claim 1 wherein the indicia of activity further comprises an average time between messages of transactions of each agent.

7.   The method of compiling performance reports as in claim 1 further comprising determining how much time has elapsed between successive transmissions of each transaction.

8.   The method of compiling performance reports as in claim 1 further comprising segregating exchanges between the agent and client from other exchanges between other agents of the plurality of agents and other clients of the plurality of clients.

9.   The method of compiling performance reports as in claim 8 wherein the step of segregating exchanges between the agent and client from other exchanges between other agents of the plurality of agents and other clients of the plurality of clients further comprises correlating an identifier of the agent and client with the transaction file.

10.   The method of compiling performance reports as in claim 9 wherein the step of correlating an identifier of the agent and client with the transaction file further comprises matching e-mail addresses of the agent and client to e-mail addresses within the transaction file.

11.   The method of compiling performance reports as in claim 1 further comprising determining and displaying a total effort value for completed transactions between the agent and the client and determining and displaying in real time an ongoing transaction total effort value for ongoing transactions.

12.   The method of compiling performance reports as in claim 11 wherein the step of segregating exchanges between the agent and client from other exchanges between the

agent and client further comprises correlating a subject matter identifier field of the exchanges with a subject matter identifier of the transaction file.

13.   An apparatus for compiling performance reports in a contact center serving a plurality of clients through the Internet using a plurality of agents, such apparatus comprising:

means for opening a transaction file for saving information about asynchronous Internet transactions between an agent of the plurality of agents and a client of the plurality of clients;

means for measuring indicia of activity for the asynchronous Internet transactions between the agent and client including an effort value which reflects effective effort to respond to each transmission within each transaction;

means for adding the measured indicia of activity to the transaction file; and

means for compiling a report based upon the transaction file.

14.   The apparatus for compiling performance reports as in claim 13 wherein the means for opening the transaction file further comprises means for detecting an initial contact between the agent and the client, and means for tagging subsequent transmissions of a continuing transaction as belonging to the continuing transaction .

15.   The apparatus for compiling performance reports as in claim 14 wherein the means for detecting the initial contact between the agent and the client further comprises means for searching a prior contact list of the agent to identify prior contacts involving the client.

16.   The apparatus for compiling performance reports as in claim 13 wherein the means for measuring the indicia of activity further comprises means for counting a number of exchanges between the agent and the client.

17.   The apparatus for compiling performance reports as in claim 16 wherein the exchanges further comprise at least one of e-mail, instant messaging, and chat sessions.

18.   The apparatus for compiling performance reports as in claim 13 wherein the effort value is determined based upon how long a transmission would have required had the transmission been spoken.

19.   The apparatus for compiling performance reports as in claim 14 wherein word content of each exchange is used to determine whether different transmissions are part of one transaction or different transactions.

20.   The apparatus for compiling performance reports as in claim 13 further comprising means for segregating exchanges between the agent and client from other exchanges between other agents of the plurality of agents and other clients of the plurality of clients.

21.   The apparatus for compiling performance reports as in claim 20 wherein the means for segregating exchanges between the agent and client from other exchanges between other agents of the plurality of agents and other clients of the plurality of clients further comprises means for correlating an identifier of the agent and client with the transaction file.

22.   The apparatus for compiling performance reports as in claim 21 wherein the means for correlating an identifier of the agent and client with the transaction file further comprises means for matching e-mail addresses of the agent and client to e-mail addresses within the transaction file.

23.   The apparatus for compiling performance reports as in claim 13 further comprising means for segregating exchanges between the agent and client from other exchanges between the agent and the client.

24.   The apparatus for compiling performance reports as in claim 23 wherein the means for segregating exchanges between the agent and client from other exchanges

between the agent and client further comprises means for correlating a subject matter identifier field of the exchanges with a subject matter identifier of the transaction file.

25.   An apparatus for compiling performance reports in a contact center serving a plurality of clients through the Internet using a plurality of agents, such apparatus comprising:

a transaction processor adapted to open a transaction file for saving information about asynchronous Internet transactions between an agent of the plurality of agents and a client of the plurality of clients;

a measurement processor adapted to measure indicia of activity for the asynchronous Internet transactions between the agent and client including an effort value which reflects effective effort to respond to each transmission within each transaction;

a transaction file for collecting the measured indicia of activity; and

a reports processor adapted to compile a report based upon the transaction file.

26.   The apparatus for compiling performance reports as in claim 25 further comprising an agent selection processor adapted to detect an initial contact between the agent and the client, and to determine a type for each transmission and attach a time stamp to each transmission within a transaction.

27.   The apparatus for compiling performance reports as in claim 26 wherein the agent selection processor further comprises a prior contact list adapted for identifying prior contacts involving the client.

28.   The apparatus for compiling performance reports as in claim 25 wherein the exchanges further comprise at least one of e-mail, instant messaging, and chat sessions.

29.   The apparatus for compiling performance reports as in claim 25 wherein the effort value is determined using proportionality to calculate an equivalent time of effort.

30.   The apparatus for compiling performance reports as in claim 25 wherein the effort value is determined based upon the character length of the transmission.